CONFIDENTIAL

Rev (CT) dt 28/2/5-

19 55.

File No. DD C 435 5

RRR

RHARL DEPARTMENT

& BRANCH

Subject:—Matters pertaining to Churches

ERS Dcp No. 38 No. 81 to 100 at Work.

57.

D.D. Churches.

B 14/3

BF 14/3

B Class

Rev (CT)

Def

17/18/3/57

D.4

Karnatak

Colln. and from original file.

21 File No. DDC 4355 54 C.

Sta. Sectt. Slip 24-A

HD (B)

Please see letter of the Director, D.D.Chawls, at page 7 c/s. and P.W.D. note underlying it.

2. The stand taken by the Director, D.D. Chawls seems reasonable. The amount of rent to be recovered is Rs.370/8/- and at a rate of Rs. 2/- P.M., it will take about 14 years and 9 months to complete the recovery.

It is not known whether the Chief Judge, Court of Small Causes, Bombay, has any authority to fix the instalment of payment of rent of the rooms occupied by peon (in D.D.Chawls), employed in his office, and whether the effect of the Prohibitory Orders can be withheld by him. The question involved in this case is of legal interpretation. The P.W.D. may therefore be advised to refer the matter to the Legal Deptt. with the note . The papers may be returned u.o. to P.W.D.

Id/-
5/1.

u.o.r. to P.W.D. dt. 5-1-55.

P.W.D.

DDC 4354/3517
A Br.

Submitted with reference to Office note on page 1 ante.

2. In view of 'A' overleaf Legal Department may see u.o. for remarks.

Id/.-
8/1/55.

u.o. to the L.D. dt. 10th January 1955.

HSS.23/6

Legal Department.

Section 13 B which has been inserted in the Bombay City Land Revenue Act, 1876 by Bombay Act No.11 of 1952 provides that " all such property as is by the Code of Civil Prodedure, 1908 exempted from attachment and sale in execution of a decree shall also be exempt from attachment and sale under section 13." Under section 60(1)(i) the salary to the extent of the first hundred rupees andone half the remainder is exempt from attachment. The texts of the Prohibitory orders which were issued in the case under reference and which were returned by the Registrar, Court of Small Causes Bombay (vide p.1/c.) are also not among the papers forwarded to this Department.

In order to enable this Department to give a definite opinion in the case under reference the P.W.D. is requested (1) to supply information about the amount of the salary of the peon Shri Sawale Dagdu Kadam and (2) to forward the prohibitory orders which were issued in this case and which were returned by the Registrar, Small Causes Court, Bombay.

Sd/-
Deputy Secretary to Government.

U.R. to P.W.D. No.7740-A , dated the 12th April 1955.

HSS.23/6

The question for considerations is whether the Registrar, Small Causes Court is bound to give effect to the Prohibitory Order passed by the Manager D.D. Chawls under section 13 of the Bombay City Land Revenue Act,1876 for attaching the salary of Shri Sawla Bagdu Kadam, a peon employed under the Registrar, Court of of Small Causes.

3. The Prohibitory orders under reference (pp.13 and 15 c/s.) have been issued by the Manager,D.D. Chawls under section 13 of the Bombay City Land Revenue Act, 1876. Sub-section (1) of section 13B of the same Act, provides that all such property as is by the Code of Civil Procedure 1908, exempt from attachment and sale in execution of a decree, shall also be exempt from attachment and sale under Section 13. Under section 60(I) (i), Civil Procedure Code the salary to the extent of the first hundred rupees and one-half the remainder is exempt from attachment. The Director, D.D. Chawls has stated that the defaulter Shri Sawla Bagdu is drawing a salary of Rs.60/- p.m. plus dearness allowance of Rs.35/- p.m. The entire amount of the salary together with the dearness allowance is therefore clearly exempt from attachment by reason of the provisions of section 13B. In the circumstances, the prohibitory orders issued by the Manager, D.D.Chawls for attaching the salary of this defaulter contravene the provisions of section 13 B of the Act and as such they are not lawful orders. The Registrar, Small Causes Court would not, therefore, be bound to give effect to the orders under reference

and no

and no useful purpose would be served by disputing the correctness or legality of the decision of the Chief Judge of the Court of the Small Causes directing that only Rs.2/- per month be deducted from the salary of the defaulter.

Sd/-
Joint Secretary to Govt.

U.O. to R.H.& D.C.D.No.17329/A, dated 6th August 1955.

DDC 4345/35206
R. H. & D.C.D.

O Hr.

Submitted.

2. In view of the L.D.'s advice over leaf the draft put up may issue, if approved.

Sd/-
8/9/55.

Sd/-
12/9/55.

This is a peculiar position!

Sd/-
14/9

RS9.33/6

No.IHS/ 3660 of 1954,
Office of the Director, D.D.Chawls,
P.W.D. Secretariat, Building,
Bombay No. 1, 14th December 1954.

To

The Secretary to Government,
Public Works Department, Bombay.

Subject:- Arrears of rent in respect of rooms Nos. 58 and 60 of Chawl No.96 at Worli.

Sir,

Reference:- Correspondence resting with Government Memo.P.W.D.NO.D.D.C. 1153 A, dated 14th April 1954.

2. In accordance with the orders issued in the Government Memorandum referred to above, Shri Sawle Dagadu Kadam, Class IV Government servant employed under the Registrar, Court of Small Causes was liable to pay arrears of rent amounting to Rs.370/8/- in respect of the rooms referred to above. The Manager, D.D.Chawls under his letter No.ANT/7861, dated 30-9-1954 requested the Registrar, Court of Small Causes, Bombay, to recover the whole arrears of rent due by the peon by suitable instalments and remit the same to him. The Registrar under instructions from the Chief Judge fixed an instalment of Rs.2/- P.M. to be recovered from the Peon's pay for the month of October 1954 onwards (vide copy of the Registrar's letter No.6428, dated the 25th November 54 attached). As the instalment fixed by the Registrar was to small, the Manager, D.D. Chawls under instructions from me issued Prohibitory Orders for attaching the salary of the Peon and served on the Registrar, Small Causes Court. The Registrar S.C. Court has returned the Prohibitory Orders stating that he cannot give effect to the Prohibitory Orders, as the decision for the deduction of Rs.2/- P.M. from the salary of the Peon had already been given by His Honour, The Chief Judge, vide copy of his letter No.6602, dated 2-12-1954 attached.

3. In this connection I have to point out that it will take about 14 years and 9 months to complete the recovery of arrears of rent from the Peon. In order that the peon may complete the payment of arrears as early as possible, I propose that Govt. may please be moved to issue order to the Manager, D.D.Chawls to take steps to get the rooms vacated, in case the peon is not prepared to pay atleast reasonable instalment i.e.moiety of the salary towards the arrears of rent according to the foot-note in the Prohibitory Order Form (Attached). It is not known whether the action of the Registrar can be termed proper in disregarding the Prohibitory Orders. It is clear that the instalments fixed are not in the interest of Government. The Departmental Officers and Heads of offices should be please be advised to see that due regard is given to such mandatory orders from the Manager to specially look to the financial interest of Government.

Yours faithfully,

Sd/-

Director, D.D. Chawls.

Encl. 2 copies of letters.

1 P.O.Form.

HSS.23/6